

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON

ROBERT LEE MCCAFFREY,

Plaintiff,

v.

CIVIL ACTION NO. 3:15-CV-09795

**CAROLYN W. COLVIN,
Acting Commissioner of Social Security,**

Defendant.

PROPOSED FINDINGS AND RECOMMENDATION

Currently pending before this Court is Brief in¹ Behalf of the Plaintiff/Claimant filed May 25, 2016 (ECF No. 14), and Defendant's Motion for Remand filed July 20, 2016 (ECF No. 18). This case was referred to this United States Magistrate Judge by standing order to consider the pleadings and evidence, and to submit proposed findings of fact and recommendation for disposition, all pursuant to 28 U.S.C. § 636(b)(1)(B). Plaintiff requests this Court to reverse the Commissioner's decision and remand this matter for further "proceedings awarding the Claimant Disability Insurance Benefits and SSI benefits; or that, in the alternative, further proceedings be ordered conducted so that the Claimant be permitted to have all evidentiary rights provided by law; and that, in any event, Claimant have such other and further relief as to which he may be deemed entitled" (ECF No. 14). Defendant moves the court for the entry of an order remanding this case to the Commissioner pursuant to the provisions of the fourth sentence of the Social Security Act, 42 U.S.C. § 405(g) (ECF No. 18). Defendant asserts that "Upon further review, the Commissioner

¹ The "in" may have been a typo, intended to be "on."

has determined that this case would benefit by further evaluation of the record and re-evaluation of Plaintiff's claim for SSI [social security income]" (ECF No. 18). Defendant asserts that Plaintiff's counsel has been contacted and consents to Defendant's Motion for Remand. (*Id.*)

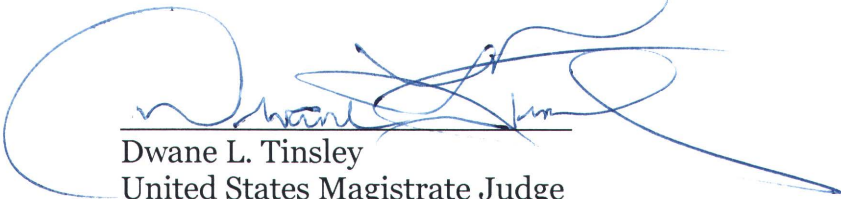
It is hereby respectfully RECOMMENDED that the District Court FIND that the Brief in Behalf of the Plaintiff/Claimant (ECF No. 14) is now MOOT and GRANT Defendant's Motion for Remand (ECF No. 18) pursuant to the fourth sentence of the Social Security Act, 42 U.S.C. § 405(g), for further proceedings.

The parties are notified that this Proposed Findings and Recommendation is hereby FILED, and a copy will be submitted to the Honorable Robert C. Chambers. Pursuant to the provisions of Title 28, United States Code, Section 636(b)(1)(B), and Rules 6(e) and 72(b), Federal Rules of Civil Procedure, the parties shall have three days (mailing/service) and then ten days (filing of objections) from the date of filing this Proposed Findings and Recommendation within which to file with the Clerk of this court, specific written objections, identifying the portions of the Proposed Findings and Recommendation to which objection is made, and the basis of such objection. Extension of this time period may be granted for good cause shown.

Failure to file written objections as set forth above shall constitute a waiver of *de novo* review by the District Court and a waiver of appellate review by the Circuit Court of Appeals. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Wright v. Collins*, 766 F.2d 841, 846 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Copies of such objections shall be served on opposing parties, Chief Judge Chambers, and this Magistrate Judge.

The Clerk is directed to file this Proposed Findings and Recommendation and to mail a copy of the same to counsel of record.

Date: August 29, 2016



Dwane L. Tinsley
United States Magistrate Judge